

Please return original to B&F/ARO.
Thank you.

'12 OCT 10 AIO:43

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
EMPLOYEES' RETIREMENT SYSTEM

September 19, 2012

STATE PROCUREMENT OFFICE
STATE OF HAWAII

To: Mr. Aaron Fujioka, Chief Procurement Officer
State Procurement Office

Through: Kalbert K. Young, Director
Department of Budget and Finance *[Signature]*

From: Wesley Machida *[Signature]*
Administrator

Subject: Notice of Request for Exemption from HRS Chapter 103D on Contract
between the Employees' Retirement System (ERS) and KMH LLP.

We request your approval to allow the ERS to extend the term of the contract from July 1, 2013 to June 30, 2014 and with the option to extend for an additional six months due to unforeseen circumstances that may arise.

KMH used proprietary information and trade secrets to develop the risk assessment which would not be available to another contractor. There is also a risk that the information by another contractor could be inadvertently revealed to a competitor if a new contractor was hired. It would be to the best interest of the System to retain KMH's services to complete the services for us.

It is anticipated that the cost through June 30, 2014 will be approximately \$685,000. Any additional costs beyond June 30, 2014 would be at the same hourly costs proposed at this time.

Please call me at 587-5380 if you have any questions.

Thank you for your consideration in this matter.



Employees' Retirement System
of the State of Hawaii

City Financial Tower • 201 Merchant Street, Suite 1400 • Honolulu, Hawaii 96813-2980
Telephone (808) 586-1735 • Fax (808) 587-5766 • <http://ers.ehawaii.gov>

PE 12-128K



STATE PROCUREMENT OFFICE
NOTICE OF REQUEST FOR EXEMPTION
FROM HRS CHAPTER 103D

12 OCT 10 A10:43

STATE PROCUREMENT OFFICE
STATE OF HAWAII

TO: Chief Procurement Officer

FROM: Budget and Finance -- Employees' Retirement System (ERS)
Name of Requesting Department

Pursuant to HRS § 103D-102(b)(4) and HAR chapter 3-120, the Department requests a procurement exemption for the following:

1. Describe the goods, services or construction:

To assist the ERS in establishing an internal audit function by: completing of internal risk assessment, operational review of key business processes, and compliance reviews, and, based on such assessments and reviews: (1) making recommendations based upon best practices; (2) developing work programs to address identified deficiencies and weaknesses in internal controls; and (3) issuing a report identifying and outlining the necessary best practices, procedures, and policies that an internal audit function within the ERS should possess. This would include, but not be limited to, establishing goals and objectives of an internal audit function, a risk assessment framework, and responsibilities with respect to annual planning and administrative activities.

2. Vendor/Contractor/Service Provider:

KMH LLP

3. Amount of Request:

\$ 685,000.00

4. Term of Contract From: Execution of
amendment To: 30-Jun-14

5. Prior SPO-007, Procurement Exemption (PE):

6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:

See Attached.

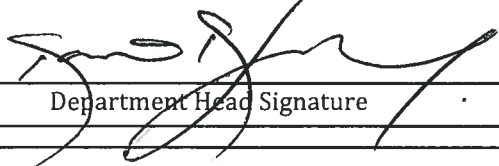
7. Explain in detail, the process that will be or was utilized in selecting the vendor/contractor/service provider:

The contractor was originally selected through a request for proposals (ERS RFP 2011-02). The fee for the additional work is based on an hourly rate. The hourly rate for the additional work is the same hourly proposed in KMH LLC's original proposal for the first and any subsequent phase. This hourly rate is very competitive and was a major factor in the award of the contract to KMH LLC. In compliance with HAR § 3-122-122, the ERS has obtained a Certificate of Current Cost or Pricing Data from KMH LLC.

8. Identify the primary individual(s) who is knowledgeable about this request, who will conduct and manage this process, and has 1) completed mandatory training; and 2) who may contact for follow up inquiry, if any.
(Type over "example" and delete cells not used.)

Name of Department Personnel	Division/Agency	Phone Number	e-mail address
Wesley Machida	ERS	727-6514	machidaw@hi.ers.org

*All requirements/approvals and internal controls for this expenditure is the responsibility of the department.
I certify that the information provided above is, to the best of my knowledge, true and correct.*


Department Head Signature

Oct. 8, 2012
Date

For Chief Procurement Officer Use Only

Date Notice Posted: 10/11/12

Submit written objection to this notice to issue an exempt contract within seven calendar days or as otherwise allowed from date notice posted to:

state.procurement.office@hawaii.gov

Chief Procurement Officer (CPO) Comments:

The department utilized the competitive sealed proposals method of procurement for providing assistance to the department in establishing an internal audit function. The department severely underestimated the scope of work and funds needed to establish an internal audit function and subsequently, developed a limited scope of work and budget for this project. There is no assurance from the department the cost to finish the project will not exceed the amount of request, which is over 300% of the original award. It would be unfair for those offerors of the original solicitation to not be given the opportunity to compete for the additional work needed to complete the project. This request is disapproved and the department may need to cancel this contract due to significantly underestimating the solicitation's scope of work and to re-solicit.

The department may want to consider for future solicitations, issuing a Request for Information prior to developing the solicitation pursuant to HAR 3-122-0.02, Request for Information to secure an understanding of the scope of work.

If there are any questions, please contact Kevin Takaesu at 586-0568, or kevin.s.takaesu@hawaii.gov.

☐ Approved

☒ Disapproved

☐ No Action Required


Chief Procurement Officer Signature

10/30/2012
Date

Attachment to Request for Exemption from HRS Chapter 103D (Budget and Finance – Employees' Retirement System (ERS)/KMH LLP)

6. Explain in detail, why it is not practicable or not advantageous for the department to procure by competitive means:

The ERS is seeking an exemption to allow the amendment of an existing contract. The original contract term and compensation cap are not sufficient for the completion of the services required by the ERS.

The ERS issued a request for proposals (ERS RFP 2011-02) to assist the ERS in establishing an internal audit function. The proposals submitted in response to the RFP provided for a multiple phase process: (1) the first phase to consist of a risk assessment, including a report of the findings of the assessment and development of work program to address the findings and actually implement the internal audit function; and (2) the remaining phase or phases to consist of "projects" to implement the work program. The "projects" address the identified "risks" by developing or improving policies, procedures and processes based on best practices.

On January 23, 2012, the ERS entered into a contract with KMH LLP in the maximum amount of \$196,000. KMH LLP has completed the first phase of the process and has delivered a risk assessment and work program to establish an internal audit function. The amount of time and work required to establish the internal audit function are more extensive than originally anticipated by the ERS. The work program provides for completion of all projects to implement the internal audit function by June 30, 2014. The original contract term was until July 31, 2012, with an option, which has been exercised by the ERS, to extend the term until January 31, 2013. An additional \$685,000 will be required to complete the work. As amended, the contract term will be until June 30, 2014, with an option to extend for an additional six months.

Because KMH LLP developed the work program to actually establish the audit function for the ERS, it would not be practical or advantageous for the ERS to procure another contractor to implement the work program. KMH LLP used proprietary information and trade secrets to develop the risk assessment. The proprietary information and trade secrets would not be available to another contractor. If a new contractor were retained, duplicative time and effort by ERS staff and the new contractor would be required to bring the new contractor up to speed. This would result in additional costs and would also delay implementation of the recommended policies, procedures and controls. There is also a risk that KMH LLP's proprietary information and trade secrets could be inadvertently revealed to a competitor, which would have an adverse effect on the ERS's ability to obtain the services of consultants in the future.